The National Wage Case: Higher education and enterprise bargaining
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In 1991 a consensus was emerging between the major industrial players to ensure that enterprise agreements would shift to the enterprise level. The ACTU and the Commonwealth Government sought proposals on enterprise bargaining in the Australian Industrial Relations Commission (AIRC) papers as the Accord's memorable 'key enterprises'. Beyond agreement on the shift of focus to the enterprise level there is, in fact, little common ground. The relationship between enterprise level and national wage movements, the definition of enterprise, the composition of bargaining units, the criteria for bargaining, the terms of enterprise agreements and their continuation are all matters of contention.

The implications of enterprise bargaining for academic staff will be affected significantly by negotiations in the Australian Public Service, especially by the Commonwealth Government and the Public Service Union (PSU) to implement the Accord Mark VI within the public sector, negotiations broke down late in 1991. These negotiations have ensured subsequent difficulty for faculty and for public sector enterprise bargaining recommended in a report by Professors Nilek, Brown and Hughes (1991).

This article reviews the debate that has emerged on enterprise bargaining in the public sector and explores some of the implications for higher education.

Enterprise bargaining - The AIRC way

During the early part of 1991, academic unions were occupied with the Full Bench hearings on award restructuring.

But in January 1991, academic unions were still hoping that the AIRC would undertake negotiations on the enterprise level. The AIRC refused to undertake enterprise agreements, because of the dangers of establishing standards and escalating flow-on effects. They also determined that enterprise agreements would lapse after their stated period of operation unless the parties agreed to extend them. These constraints effectively put the parties to reach an ongoing commitment.

The alternative, put by the ACTU, would be to have enterprise agreements negotiated as a collective bargaining process rather than as an enterprise agreement, which the AIRC determined that the parties to an enterprise agreement, would have a greater capacity to use industrial action to generate "consent".

Consent-based enterprise bargaining is unlikely to assist workers in industries which have low levels of unionization, and/or high levels of casual and part-time labour where attachment to bargaining is weak. It is also unlikely to assist workers in industries where "production" is solely loosely tied to target output.

The real achievements that women workers have been able to make under enterprise agreements may well be at risk. A award rates for women have increased by 8% compared with increases of 6% for men during the process of enterprise negotiations. (Department of Industrial Relations, 1991). In a survey of gender wage gaps internationally, a report by the National Pay Equity Bureau notes that Australia has a gender wage gap of 21% compared with 30% and 40% respectively for the USA and Japan (1990, p.9). The report argues that strong unionism and a centralised wage fixation system are the key elements which explain Australia's relatively better performance.

In its October 1991 decision the Commission expressed concern about the enterprise agreements. This argument led the Commission to set in place constraints upon enterprise agreements and to canvass the appropriateness of alternative sections of the industrial relations system. In considering which sections of the Agreement the Commonwealh Government allowed for enterprise agreements to be made. The negotiations were based upon a submission by the finance sector for public services. The Commission rejected them and decided instead to establish a workplace, the Commonwealth Government has commenced a review of these sections of the Act, the objective of facilitating enterprise agreements through the.

Enterprise bargaining in the public sector

Prior to the October National Wage Case Decision, the Public Service and the PSU had retained negotiations on the implementation of the Accord Mark VI decision. The negotiations were based upon an agreement in the Commonwealth Government and the Public Service Union to implement the Accord's workplace arrangements. This would be based upon a market rate's survey. The PSU expected that the Commission would continue to apply different criteria for paid rates which would then lead to the public sector to those which apply in the private sector where minimum rates apply. The most significant difference was that, as paid rates represented the actual amount paid, the Commission allowed variations in wages to be approved on the basis of market surveys.

In the Commonwealth Government as conducting an examination of the implications of enterprise bargaining. A Committee of Heads of Australian Public Service Agencies reported that the an examination of the implications of enterprise bargaining. A Committee of Heads of Australian Public Service Agencies reported that the wide range of possibilities in which base rates provide incremental conclusions to point at which individual performance pay, sometimes against budgetary ceilings, takes place.

As it is in Australia, these reforms to wage fixation have taken place against other decisions in the public sector. In the United Kingdom, the Treasury and public sector are operating on running costs systems which provide close to a one-time budget, part of which is guaranteed. The Treasury is now meeting the quality of that system makes it easier on the people at the end of each financial year to exhaust the budget allocation. In Australia, the Commonwealth Government provides non-wage public sector employees operate on running costs systems which provide close to a one-time budget, which may have been carried forward. The quality of that such a system allows greater flexibility and avoids the inefficiency of spending at the end of each financial year to exhaust the budget allocation. In Australia, the Commonwealth Government provides non-wage public sector employees operate on running costs systems which provide close to a one-time budget, which may have been carried forward. The quality of that such a system allows greater flexibility and avoids the inefficiency of spending at the end of each financial year to exhaust the budget allocation. In Australia, the Commonwealth Government provides non-wage public sector employees operate on running costs systems which provide close to a one-time budget, which may have been carried forward. The quality of that such a system allows greater flexibility and avoids the inefficiency of spending at the end of each financial year to exhaust the budget allocation. In Australia, the Commonwealth Government provides non-wage public sector employees operate on running costs systems which provide close to a one-time budget, which may have been carried forward. The quality of that such a system allows greater flexibility and avoids the inefficiency of spending at the end of each financial year to exhaust the budget allocation. In Australia, the Commonwealth Government provides non-wage public sector employees operate on running costs systems which provide close to a one-time budget, which may have been carried forward. The quality of that such a system allows greater flexibility and avoids the inefficiency of spending at the end of each financial year to exhaust the budget allocation. In Australia, the Commonwealth Government provides non-wage public sector employees operate on running costs systems which provide close to a one-time budget, which may have been carried forward. The quality of that such a system allows greater flexibility and avoids the inefficiency of spending at the end of each financial year to exhaust the budget allocation.

All of these factors provide a solid basis for the Report to reject the recommendations. But they do not explain why the Report, having considered the development of productivity measurement for the public sector, has no alternative but to adopt the recommendations. The Report continues performance indicators, describing "performance indicators" as a "looser version of traditional productivity measurement." (p.12). Professor Keeney's paper notes that performance indicators may have limited use for evaluating the public sector, but that if they are articulated in detail they could become conservative measurement mechanisms for efficiency. The Report continues performance indicators as the model for productivity bargaining in the public sector.

Keneley evaluates the usefulness of simple factor productivity measures, total factor productivity measures and performance indicators. As a tool in the industrial relations agenda in the Australian Public Service is relatively new. The Report presents some treatment of

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what performance indicators might be reliably measured. Public Service Departments suffer enormously in the nature of performance required. The client base can be as wide as the population as a whole or as narrow or as specialized as the group that the client is. Client satisfaction may be determined by political goals. For example, a government which wishes to be seen as providing a fair and efficient service will focus on client satisfaction and will make sure its employees are trained to meet this objective. This is not necessarily a good thing; client satisfaction may be determined by political goals and will not necessarily improve the quality of service provided. Satisfaction surveys, for example, will only show how satisfied customers are, not whether the service is good or bad.

While the idea of a diversity indicator would be every consultant's dream, this final recommendation draws attention to the fact that one cannot measure diversity in all its forms. It is not only a question of measuring the diversity of the population, but also of measuring the diversity of the workforce and the diversity of the services provided.

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the October decision has generated more debate than results. The latter part of 1992 should determine whether the concept has "legs", as the jargon puts it.  

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Notes
1. This issue is canvassed in Pezze, M. (1991), Economic Rationalism in Canberra, Canberra University Press, Australia. His critique on the link between pay and career advancement are particularly compelling.  

In mid 1991 the The Australian's Higher Education Supplement reported the opposition of academic employees under the leadership of David Kemp, "paying the Opposition was committed to restoring the freedom universities need to manage their staff" (The Australian, 10/7/91, 11). This 'freedom' was to be based on voluntary agreements and the principles of enterprise bargaining. The comment by Dr Kemp highlights the values which are central to the conservative industrial relations policy. These are not essentially about restoring some mythical freedom of choice for workers and employers but rather about extraneousism an unfettered managerial prerogative, restoring management's 'right' to manage. Such policies seek to reverse the historical trend of the last 100 years which has seen the progressive establishment of industrial legislation designed to limit managerial prerogative. The new conservative offensive, however, goes beyond merely seeking to repeal the fetters of existing legislations. It also seeks to confer further powers on employers and to deusnurse the workforce through the promotion of 'voluntary agreements'. As Dr Kemp's remarks make clear, academics will be subject to the general principles of the Opposition's industrial relations policy.  

In recent years a shift to enterprise bargaining has also been promoted by the federal Labour Government and the ACTU. However, the notion of enterprise bargaining used by the ACTU differs significantly from that advanced by the Coalition. Both the federal government and the ACTU see enterprise bargaining as occurring within the existing legal framework for regulating industrial relations. A shift to enterprise bargaining in the universities under existing laws would not have the same implications for academics as those proposed under the Coalition. This is not to say that there will be no significant changes in the employment conditions for academics under the former.  

In this paper we explore the implications of enterprise bargaining for academic staff and academic union under the different models of enterprise bargaining advocated by the present government and the federal opposition.  

The Conservative Approach: Enterprise bargaining and managerial prerogative, voluntary agreements and enterprise unionism  

Under the Coalition's proposed industrial relations policy union recognition or the right to bargain is not guaranteed. This constitutes with the existing legislative framework where union recognition and bargaining (over some issues) is virtually assured. Unions registered under the federal Industrial Relations Act have the right to recruit members from particular occupations or industries in accordance with their registered rules and to bargain on behalf of those workers. Since a determination can be reached via arbitration even if the employer refuses to deal with the union, employers are encouraged to recognise and negotiate with unions (equally employers can take matters to arbitration if a union refused to consider an employer-initiated claim). Disputes may be resolved through direct negotiation between the parties or consolidation, and in practice the vast majority of disputes are resolved without recourse to arbitration. The awards, agreements or determinations that result cover both union and non union members of the employees concerned.  

The speeches of the Shadow Minister for Industrial Relations, John Howard, however, clearly enunciates a vision of enterprise bargaining where employees will be encouraged forced to by-pass unions and deal directly with their employers. Employees may choose union representation if they wish to by stimulating an existing union or one formed by workers at that enterprise as a result of enterprise bargaining. The Coalition's recognition of such bargaining agents will apply or what new rules will regulate such bargaining. These ground rules are vital. In the United States, for example union recognition or rights to bargain and bargaining procedures are highly regulated and in a manner unfavorable to unions. The procedures in the United States have offered little protection to organised workers from 'sham bargaining'...changes in employer operation or other forms of management resistance or attack, they have raised the cost of new organisation and, by freeing up enterprise focus on workers, they have rendered wider industrial and political action difficult and ineffective (Rogers 1996). In the post-war period union density in the US has declined from a peak of 25.9% in 1953 to 6.4% in 1989 and the particular forms of American labour law (based on enterprise bargaining) seems as playing a pivotal role in the decline of American unions (Rogers 1996:54).  

If guaranteed recognition was removed in Australia many groups of employees (such as those in small business, resulting, tourism and other service industries) would find it very difficult to assure union recognition or would be obliged to accept the union the employer finds most acceptable. Where this is the case one may speculate how bargaining is to occur on an equitable basis. An employee without union representation is unlikely to risk confrontation with an employer if they fear losing their job or damaging their prospects of promotion. Equally, as the Japanese experience shows (see Chalmers, 1989) the enterprise specific unions which most employers might favour are (by definition) often small and lack the resources or logistical strength to bargain effectively on behalf of their members. Further, in contrast to industrial or occupation-specific awards and issue-specific enterprise agreements generally consistent with these in terms of wage rates, hours etc that exist at present, the Coalition's reforms are likely to lead to a fragmented system entailing a multiplicity of workplace or enterprise agreements whose enforcement would be problematic to say the least. If the experience of New Zealand (where similar laws have been introduced) is any guide, for many workers these agreements will involve a significant deterioration of wages and working conditions (see for example Casey, 1992: 9-10; Ryall, 1991, 17 and Wilson 1991:268-275).  

University academics, and some groups in particular, will not be exempt from these processes. In all too many of the strongly organised workplaces union recognition will depend critically on the attitude of employers. While individual universities may be unlikely to refuse to recognise existing union so long as they play a role in the creation of an enterprise specific union with an affiliation to FAUSA/ UACA, as has already occurred at Bond University (see below). Alternatively, some may place pressure on an existing staff association is either distance itself or sever its links with FAUSA/UACA. An indication of what such a move might lead to is provided by some recent internal Vice-Chancellor's will, while recognising existing unions, simply declare that certain issues are only to be negotiated at institutional level (AHMA has already done this in relation to the non-renewal of academic positions) and that some issues (like loadings, confirmation and promotion grievances) are not open to union representation or bargaining at any level.